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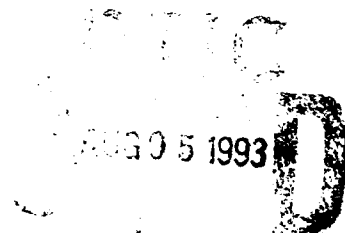
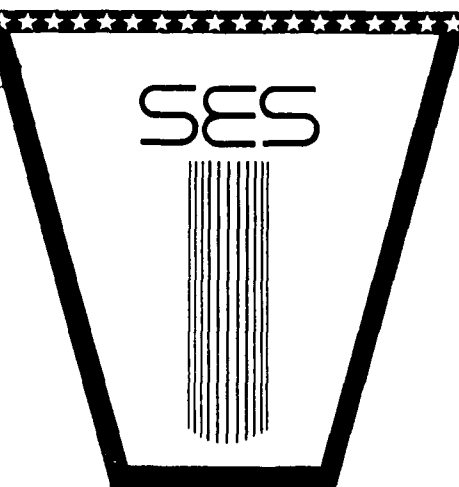
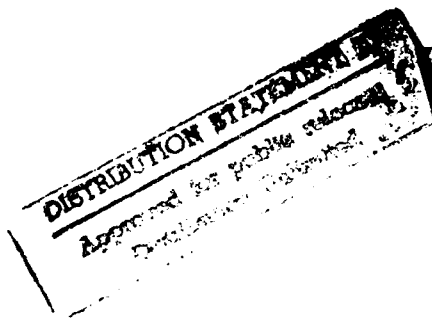
DOD 1402.3-H

Chapter 3



SENIOR EXECUTIVE SERVICE

Executive Pay-Setting



93-17637



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Office of the Secretary of Defense, DoD Field Activities,
the Joint Staff, the U.S. Court Military Appeals,
the U.S. Mission to NATO, and the Defense Agencies

DECEMBER 1988

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Administration
& Management

OFFICE OF THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301

DoD 1402.3.-H
Chapter 3
December 19, 1988

FOREWORD

The Senior Executive Service Handbook is issued under the authority of DoD Directive 1402.3, "Administration of the Senior Executives Service Program in the Office of the Secretary of Defense and the Defense Agencies," August 16, 1984.

This is a reissuance of Chapter 3 which provides information to Senior Executive Service (SES) members and their supervisors concerning the SES pay structure, the statutory and regulatory requirements, and the Office of the Secretary of Defense's policy on setting and adjusting SES pay levels. Chapter 3 now permits pay level adjustments within the succeeding twelve months after a transfer, provided the transfer did not include a pay level adjustment, and it also liberalizes the guidance for setting pay upon initial appointment to the SES. Additional changes mainly involve streamlining content and organization.

The provisions of this chapter apply to the Office of the Secretary of Defense (OSD), DoD Field Activities, the Joint Staff, the Defense Agencies (except the National Security Agency/Central Security Service and the Defense Intelligence Agency), the Strategic Defense Initiative Organization (SDIO), the U.S. Court of Military Appeals (USCOMA), and the U.S. Mission to the North Atlantic Treaty Organization (NATO).

This chapter is effective immediately and its use is mandatory.

Send recommended changes through channels to the following:

SES and Classification Division
Directorate for Personnel and Security
Washington Headquarters Services
Room 3C444, The Pentagon
Washington, D.C. 20301-1155

OSD Components may obtain copies of this chapter from the OSD Publications Counter, Room 3B960, The Pentagon. Other DoD Components should obtain copies of the chapter through their own publications channels. Other Federal Agencies and the public may obtain copies from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

D. O. COOKE
Director

REFERENCES

- (a) Title 5, United States Code, Section 5382
- (b) Title 5, United States Code, Section 5305
- (c) Title 5, United States Code, Section 5383(c)
- (d) Title 5, Code of Federal Regulations, Section 534.401
- (e) Title 5, United States Code, Section 5383(d)
- (f) Title 5, United States Code, Section 5383(b)
- (g) Title 5, United States Code, Section 5541
- (h) Title 5, United States Code, Section 5550(a)

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CHAPTER 3

EXECUTIVE PAY SETTING

A. GENERAL

1. The instructions in this chapter apply to a variety of personnel actions and to all types of SES appointments (i.e., career, noncareer, limited term, and limited emergency).

2. The material in this chapter complements and should be used in conjunction with the material in Chapter 2, Executive Staffing; Chapter 4, Performance Planning and Evaluation; Chapter 6, Reassignment and Transfers; Chapter 7, Reinstatement; and Chapter 8, Probationary Period.

B. DEFINITIONS

1. Rate of Basic Pay. The rate of pay fixed by law or administrative action for each of the SES pay levels, ES-1 through ES-6.

2. Scheduled Rate. The rate of basic pay.

3. Payable Rate. That portion of the scheduled rate(s) which (under conditions of a pay cap) may be paid to SES members. In the absence of a pay cap, the payable rates are identical to the scheduled rates.

4. Pay Cap. A limit imposed by the Congress on the maximum amounts that may be paid under the SES pay schedule.

5. Pay Adjustment. For purposes of this chapter, a change in the SES pay level of an SES member.

6. Agency. Collectively, the Office of the Secretary of Defense (OSD), DoD Field Activities, the Joint Staff, the U.S. Mission to the North Atlantic Treaty Organization (NATO), the U.S. Court of Military Appeals (USCOMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), the Defense Legal Services Agency (DLSA), and the Strategic Defense Initiative Organization (SDIO).

7. Defense Agencies

- a. Defense Communications Agency (DCA).
- b. Defense Contract Audit Agency (DCAA).
- c. Defense Investigative Service (DIS).
- d. Defense Logistics Agency (DLA).
- e. Defense Mapping Agency (DMA).
- f. Defense Nuclear Agency (DNA).

8. Employing Organization

- a. Each of the six Defense Agencies.
- b. OSD Components (includes all activities listed under "Agency").

C. SES PAY STRUCTURE

1. There are six separate pay levels in the SES, designated as ES-1 through ES-6.
2. The rate of basic pay for each of these levels is established by the President. 5 U.S.C. 5382 (reference (a)) provides that the rate of basic pay for ES-1 may not be lower than the rate for GS-16, step 1 of the General Schedule, and that the rate of basic pay for ES-6 may not exceed the rate for Level IV of the Executive Schedule.
3. The rates of basic pay are adjusted by the President. The SES is one of the statutory pay systems included in the President's annual report to the Congress on pay adjustments submitted under 5 U.S.C. 5305 (reference (b)).
4. When a pay cap has been imposed, there will be a difference between the rate of basic pay (scheduled rate) and the capped rate (payable rate) for one or more of the ES pay levels. The payable rate is used to compute bi-weekly pay, retirement deductions, retirement credit, life insurance coverage, lump-sum payment of accrued annual leave, and severance pay.
5. Information on changes in the scheduled or payable rates is promulgated by Office of Personnel Management (OPM) Bulletins published under the Federal Personnel Manual System.

D. DISTRIBUTION OF PAY LEVELS

1. There are no statutory restrictions on the number of executives that may be paid at each of the six pay levels. However, if pay level is to have an effect in attracting, retaining, and rewarding high-caliber executives, it is important that there be a meaningful distribution. For this reason, OPM has recommended a pattern in which the greatest concentration is near the middle of the pay scale (ES-3 and 4), with significantly smaller proportions at ES-1 and 2, and ES-5 and 6, respectively.
2. The Office of the Secretary of Defense concurs in that general objective. In order to achieve such a distribution, agencies are urged to bring new appointees into the SES at pay levels ES-1 and ES-2 whenever appropriate, and exercise restraint in proposing adjustments to pay levels ES-5 and ES-6.

E. PAY SETTING - INITIAL APPOINTMENTS

1. General Factors. Under the Executive Assignment System (predecessor of the SES), the classification grade of the position was the principal determinant in setting the pay of the incumbent. Because the SES is a gradeless service, a number of factors related to the employee, the organizational structure, and the job market must be examined. Moreover, these factors must be considered within the context of the agency policy described in paragraph E.2, below.

a. Factors Personal to the Selectee

- (1) The qualifications of the selectee.
- (2) The selectee's expected impact on the position and the operation of the organization, as well as the accomplishment of the organization's goals and objectives.
- (3) The current employment status and salary of the selectee.

b. Factors Related to the Organizational Structure

- (1) The scope of responsibility of the position.
- (2) The position's placement in the organization hierarchy.

c. Factors Reflecting Conditions in the External Job Market

- (1) Problems in recruiting candidates who meet the requisite qualifications requirements.
- (2) Income received in the non-Federal sector for comparable positions.

2. Agency Policy. The agency has adopted a set of guidelines on pay setting with the dual objective of providing for the equitable treatment of appointees and promoting internal consistency. Except to the extent that they reflect statutory or regulatory requirements, the guidelines are not absolute. In fact, since the individual guides are not uniformly consistent, some deviation may be unavoidable. The general guidelines are:

a. If the selectee is a current Federal employee, the SES pay level offered should be not less than the individual's current salary.

b. Pay increases of about 6% above current salary generally are appropriate. (When a pay cap has been imposed, the increase is computed on the basis of the scheduled rates.) Proposed increases above 6% must be justified in writing, as described in subparagraphs E.2.d. and 3.a., below.

c. Whenever feasible, new appointees should be assigned to pay levels ES-1 or ES-2.

d. Appointments at pay levels ES-5 and ES-6 should be the exception. They must be justified conclusively in the memorandum cited under subparagraph E.3.a., immediately below.

3. Procedures for Approval of Pay Level

a. The selecting official recommends an initial pay level. This recommendation is included in that official's memorandum on the selection. (See Chapter 2, Executive Staffing, for further details.)

b. Initial pay levels must be approved in advance of appointment by the Director of Administration and Management (DA&M), Office of the Secretary of Defense.

F. PAY SETTING - NONCOMPETITIVE ACTION

1. For the following noncompetitive actions, new pay level determinations are permitted in accordance with the guidelines in Section E, above, without regard to pay actions that may have occurred within the preceding 12 months:

a. Transfer (other than a transfer of function).

b. Reinstatement following a Presidential appointment when the individual did NOT elect to continue the SES pay provisions while serving under the Presidential appointment.

c. Reinstatement (not following a Presidential appointment) to an agency other than the one in which the individual was employed previously as an SES member.

d. Reinstatement to the agency from which the individual was employed previously as an SES member, PROVIDED there was a break in service of more than 30 calendar days.

2. The following noncompetitive actions are considered for purposes of pay setting as subject to Section G, below. Accordingly, if there was an initial appointment, transfer involving a change in pay level, or pay adjustment within the past 12 months, the individual's pay level may not be adjusted at the time the noncompetitive action is effected.

a. Reassignment.

b. Transfer under a transfer of function.

c. Reinstatement following a Presidential appointment when the individual elected to continue the SES pay provisions while serving under the Presidential appointment.

d. Reinstatement to the agency from which the individual was employed previously as an SES member, after a break in service of 30 days or less.

G. PAY-LEVEL ADJUSTMENTS

1. General Provisions

a. 5 U.S.C. 5383(c) (reference (c)) provides that the ES pay level assigned to an SES member may not be adjusted (either up or down) more than once in any 12-month period. The initial 12-month waiting period begins upon the date of appointment to the SES. A new 12-month waiting period is required at the time of a pay adjustment; transfer, if the individual's pay level actually was changed upon transfer; conversion; or upon reinstatement, when the new pay rate is different from the former rate or if the break in SES service exceeds 12 months.

b. Subject to the restrictions on the assignment of pay levels ES-5 and ES-6 discussed in subparagraph G.3.b., below, an executive's pay may be increased by one or more levels. However, an adjustment downward is restricted by 5 CFR 534.401 (reference (d)) to one SES pay level per adjustment.

c. Under 5 U.S.C. 5383(d) (reference (e)) an SES career appointee is entitled to a 15-day advance written notice of an adjustment downward in his or her pay level (see reference (d)). This requirement may not be waived.

d. A change in pay resulting from the implementation of a revision in the ES pay-rate schedule (by Presidential or Congressional action) does not constitute a pay adjustment for purposes of this section.

2. Agency Policy. The Office of the Secretary of Defense has adopted the following guidelines on making pay adjustments. These guidelines supplement the statutory and regulatory restrictions referred to in subparagraphs G.1.a., 1.b. and 1.c., above.

a. The SES pay system does not parallel the grade/step structure of the General Schedule pay system. Accordingly, SES members have no entitlement to an adjustment in pay level. A member's pay level should not be adjusted simply because he or she has been paid at a particular level for a specified period of time.

b. Pay-level adjustments should be used as one means of rewarding excellence in performance, thereby helping the agency retain its high-caliber executives.

c. Pay adjustments should be considered in connection with the annual performance review, but are requested and processed separately.

d. Adjustments to pay levels ES-5 or ES-6 should be the exception. They must be justified conclusively in the memorandum required pursuant to subparagraph G.3.b., below.

3. Approval of Pay-Level Adjustments

a. Adjustments to pay levels ES-1 through ES-4 shall be recommended and approved by individual OSD Components and Defense Agencies in accordance with their delegations of authority, if applicable. Pay adjustment recommendations for OSD Components not covered by a delegation of authority shall be forwarded to the SES and Classification Division, Director for Personnel and Security, WHS, for processing to DA&M for approval.

b. All recommendations for adjustments to levels ES-5 and ES-6 by the Heads of OSD Components and Directors of the Defense Agencies shall be submitted to the DA&M for approval.

c. All recommendations for pay-level adjustments for Defense Agency General Counsels shall be coordinated and approved by the General Counsel, Department of Defense and the Director, DLSA.

H. SUBMISSION OF OPM FORM 1390, "EXECUTIVE PERSONNEL TRANSACTION"

A completed OPM Form 1390, showing the pay level adjustment and effective date, must be forwarded to the SES and Classification Division, Director for Personnel and Security, WHS, within five work days after the effective date of the action by those OSD Components and Defense Agencies who do not receive personnel servicing from WHS.

I. CEILING ON TOTAL COMPENSATION

As provided by 5 USC 5383(b) (reference (f)), the aggregate amount paid to an SES member during any fiscal year for SES pay, an SES performance award (commonly referred to as a bonus) and a Presidential Rank Award (Distinguished or Meritorious) may not exceed the annual rate payable at Level I of the Executive Schedule in effect at the end of such fiscal year. However, the amount in excess may be rolled over and paid to the executive in a lump sum at the beginning of the next fiscal year.

J. PREMIUM PAY EXCLUSION

In accordance with 5 U.S.C. 5541 (reference (g)), premium pay (i.e., overtime, compensatory time, Sunday or holiday pay and night, standby, irregular, and hazardous duty pay differential) is not authorized for members of the SES except as noted in Section K., below.

K. COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

Under 5 U.S.C. 5550(a) (reference (h)), an employee whose personal religious beliefs require the absence from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who elects such overtime work shall be granted equal compensatory time off from his or her scheduled tour of duty for such religious reasons.